



**WASHINGTON
UTILITIES and TRANSPORTATION COMMISSION**

Staff Investigation Report



Waste Management of Washington, Inc.

Docket TG-091127

Waste Management of Washington, Inc.
Waste Management of Greater Wenatchee
Staff Investigation
Docket TG-091127
October 13, 2009

Purpose

The purpose of this investigation is to determine if Waste Management of Washington, Inc., d/b/a Waste Management of Greater Wenatchee improperly billed its customers an “Environmental Fee” of \$2.13 and associated taxes and surcharges, in violation of its tariff and RCW 81.28.080 which states common carriers shall not charge, demand, collect or receive a greater or less or different compensation for transportation charges filed and in effect at the time, and WAC 480-70-236 which states a company cannot assess rates and charges for solid waste collection service that are higher, lower or different from those contained in its tariff.

Copies of RCW 81.28.080 and WAC 480-70-236 are included in Appendix A.

Company Information

Waste Management of Washington, Inc. (Waste Management) is a subsidiary of Waste Management, Inc. Waste Management, Inc. operates throughout North America. In Washington, Waste Management operates under certificate G-237 through various trade names. Waste Management of Greater Wenatchee is one of these trade names.

Waste Management’s total regulated revenue in Washington state exceeds \$100 million and the company has over 555,000 customers. In the Waste Management Greater Wenatchee service territory, the company has revenues of over \$5 million with more than 14,000 customers.

Waste Management’s Washington headquarters are located in Kirkland, Washington.

Background

This investigation was prompted by a consumer complaint filed at the commission against Waste Management by customer Ann Baye on March 17, 2009. In her complaint Ms. Baye stated Waste Management had charged her a \$2.13 Fuel/Environmental Charge on her February and March 2009 bill. Ms. Baye has a commercial account with Waste Management.

Ms. Baye did not know what the charge was for or why she was being billed. Ms. Baye told commission staff when she filed her complaint that she called Waste Management to dispute the bill and the company representative told her it was an approved charge and referred her to the commission for further assistance.

Copies of the customer’s 2009 bills showing charges and credits are included in Appendix B.

Investigation

On March 17, 2009, Ann Baye filed a complaint with the commission's Consumer Protection section against Waste Management. The customer complained that Waste Management had billed her a \$2.13 Environmental Fee and Fuel Surcharge and other related charges on her March 2009 solid waste collection services bill. On March 25, Consumer Protection staff person Lynda Johnson forwarded the complaint to Waste Management for response.

On March 27, 2009, Will Russell, Waste Management District Manager in Wenatchee, responded that he had researched the issue and found that the Environmental Fee and other related charges¹ billed to Ms. Baye was a clerical error and that Waste Management had credited her account for the improper charge. Mr. Russell also stated on March 27 that "unfortunately there were other customers affected by the error. Our accounting and billing departments are working diligently to rectify the issue and credit back the customers that were affected..."

On April 9, 2009, commission staff asked Mr. Russell if other customers were also charged the Environmental Fee and if they had also received credits. Mr. Russell did not respond. On May 28, 2009, staff asked Mr. Russell again if other customers were charged and if yes, had they received a credit.

Mr. Russell apologized for the delay in an e-mail response to staff on May 28, and said that other customers had received credits for this charge and that the issue had been resolved. Staff again asked for the specific number of customers billed the improper charge. After a series of e-mails and provision of various lists of customers, charges, and credits, on June 8, 2009, Pearlie Simpson, another employee of Waste Management of Greater Wenatchee, informed commission staff that 3,213 customers were sent bills that included the improper Environmental Fee and Fuel Surcharge and other associated charges in February 2009, and, in March 2009, 3,201 bills that included the improper Environmental Fee and Fuel Surcharge and other associated charges, were sent to customers.

Waste Management of Greater Wenatchee's Tariff No. 12 does not contain a tariffed charge for an Environmental Fee or Fuel Surcharge for solid waste collection customers.

Further information received from Waste Management indicated that the improper Environmental Fee and Fuel Surcharge were charged to all regulated commercial customers. According to Waste Management, the Environmental Fee and Fuel Surcharge are charges that are only applied to the company's unregulated commercial recycling customers, which are outside the commission's jurisdiction. The associated refuse and utility taxes are automatically linked to and calculated from the Environmental Fee and Fuel Surcharge and were based on the amounts of those charges. Instead of only billing the commercial recycling customers these charges, Waste Management billed all commercial customers in error.

¹ In addition to the Environmental Fee, Waste Management charged a fuel surcharge and refuse taxes.

Waste Management of Washington, Inc.

The improper charges billed to Ms. Bay break down as follows:

February 2009	Environmental Fee	\$1.08
	Fuel Surcharge	\$1.05
	Refuse Tax	\$.04
	Refuse Tax	\$.04
March 2009	Environmental Fee	\$1.07
	Fuel Surcharge	\$.90
	Refuse Tax	\$.03
	Refuse Tax	\$.04

In April 2009, Waste Management issued credits to all of its improperly billed commercial customers.

On June 26, 2009, staff recorded 32 violations of WAC 480-70-386(b)(ii) for failure to respond to staff's April 9 2009 e-mail asking Waste Management if the improper charge was only billed for one month and how many other customers were affected. The response was due April 13, 2009. Waste Management did not respond until May 28, 2009.

Also on June 26, 2009, staff recorded 6,414 violations of RCW 81.28.080, for incorrectly billing 3,213 commercial customers in February 2009, and 3,201 commercial customers in March for an Environmental Fee, Fuel Surcharge, and Refuse Tax that is not applicable to commercial solid waste collection services customers.

Recommendation:

Staff recommends the commission seek penalties under RCW 81.04.380 of \$10 for each of the 6,414 improper bills issued in February and March 2009 for a Fuel Environmental Charge, in violation of RCW 81.28.080, for a total penalty of \$64,140.

APPENDIX A

RCW 81.28.080

Published rates to be charged — Exceptions — Definitions.

(1) A common carrier subject to regulation by the commission as to rates and service shall not charge, demand, collect, or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares, and charges applicable to such transportation as specified in its schedules filed and in effect at the time and shall not refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified excepting upon order of the commission as hereinafter provided, or extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. Any common carrier subject to regulation by the commission as to rates and service shall not, directly or indirectly, issue or give any free ticket, free pass, or free or reduced transportation for passengers between points within this state, except to the carrier's employees and their families, surgeons and physicians and their families, the carrier's officers, agents, and attorneys-at-law; to ministers of religion, traveling secretaries of young men's christian associations, inmates of hospitals, charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute, and homeless persons; to inmates of the national homes or state homes for volunteer soldiers with disabilities and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk, and fruit; to lineworkers of telegraph and telephone companies; to post office inspectors, customs inspectors, and immigration inspectors; to baggage agents and witnesses attending any legal investigation in which the common carrier is interested; to persons injured in accidents or wrecks and physicians and nurses attending such persons; to the national guard of Washington when on official duty; and students going to and returning from state institutions of learning. This section does not prohibit the interchange of passes for the officers, attorneys, agents and employees and their families, of commercial ferries or prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation.

(2) "Employee," as used in this section, includes furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, the remains of a person killed or dying in the employment of a carrier, those entering or leaving its service, and former employees traveling for the purpose of entering the service of any such common carrier.

(3) "Families," as used in this section, includes the families of those persons named in subsection (2) of this section, the families of persons killed and their surviving spouses prior to remarriage and minor children during minority, and the families of persons who died while in the service of any such common carrier.

(4) Nothing in this section prevents the issuance of mileage, commutation tickets, or excursion passenger tickets or prevents the issuance of free or reduced transportation by any street railroad company for mail carriers, or police officers or members of fire departments, city officers, and employees when engaged in the performance of their duties as city employees.

(5) Common carriers may carry, store, or handle, free or at reduced rates, property for the United States, state, county, or municipal governments, for charitable purposes, or to or from fairs and exhibitions for exhibition, and may carry, store, or handle, free or at reduced rates, the household goods and personal effects of its employees, those entering or leaving its service, and those killed or dying while in its service.

[2007 c 234 § 27; 2007 c 218 § 74; 1973 1st ex.s. c 154 § 117; 1961 c 14 § [81.28.080](#). Prior: 1929 c 96 § 1; 1911 c 117 § 18; RRS § 10354. Formerly RCW [81.28.080](#) through [81.28.130](#), [81.28.150](#) through [81.28.170](#), and [80.36.130](#).]

WAC 480-70-236

Tariffs, all companies must file tariffs and must comply with the provisions of approved tariffs.

(1) No company may provide solid waste collection service until it files, and the commission approves, a tariff.

(2) No company may assess rates and charges for solid waste collection service that are higher, lower, or different from those contained in its approved tariff.

(3) No company may accept a payment for service provided that is higher, lower, or different from the rates and charges contained in its approved tariff.

[Statutory Authority: RCW [81.04.160](#), [81.77.030](#) and [80.01.040](#). 01-08-012 (Docket No. TG-990161, General Order No. R-479), § 480-70-236, filed 3/23/01, effective 4/23/01.]

APPENDIX B



WASTE MANAGEMENT OF WENATCHEE
PO BOX 1440
WENATCHEE WA 98807

(509) 662-4591
(509) 662-5675 FAX
www.wmnorthwest.com

INVOICE

Customer: BAYE, ANN
Account Number: [REDACTED]
Invoice Date: 03/01/2009
Invoice Number: [REDACTED]
Due Date: 3/31/2009
WM ezPay Account ID: [REDACTED]

Current Invoice Amount	Total Amount Due
19.70	19.70

Account Summary

Description	Amount
Previous Balance	35.58
Total Credits and Adjustments	0.00
Total Payments Received	35.58
Total Current Charges	19.70

Total Amount Due 19.70
Total Amount Past Due 0.00

Service Period: FEBRUARY 2009

Description	Amount
Commercial	19.70
Total Current Charges	19.70

If full payment of the Invoiced amount is not received on or before the delinquent date, you will be charged a monthly late fee of 1% of the unpaid amount, with a minimum monthly charge of \$1.00, or such lesser late fee allowed under applicable law, regulation or contract. For each returned check, a fee will be assessed on your next billing equal to the maximum amount permitted by applicable state law.

Please pay total amount due. Thank you for your business.

Account delinquent if payment not posted by Mar 31, 2009.

Holidays: Regular service on all holidays except Thanksgiving, Dec 25th and Jan 1st. If your collection falls on or after one of those days, service will be one day later that week.

Want to pay this bill on-line? Go to www.wm.com to learn more about WMezPay and make a convenient, secure payment.

Current Due	Over 30	Over 60	Over 90	Over 120	Total Due
19.70	0.00	0.00	0.00	0.00	19.70



WASTE MANAGEMENT OF WENATCHEE
PO BOX 1440
WENATCHEE WA 98807

(509) 662-4591
(509) 662-5675 FAX
www.wmnorthwest.com

Learn how we Think Green at
www.wm.com/thinkgreen

Payment Coupon

Please detach and enclose this portion with your payment - do not send cash.

Your Account Number [REDACTED]	
Invoice Date 03/01/2009	Your Invoice Number [REDACTED]
Due Date 3/31/2009	Total Due 19.70
Amount Paid	

Waste Management introduces WM ezPay! Pay your WM bill on-line at www.wm.com.

To pay your invoice by phone, call 866-WMI-2PAY or 866-964-2729.

0007063 01 AV 0 324 **AUTO T5 6 4054 98801-104613 CP112881C54



BAYE, ANN
2113 SUNRISE CIR
WENATCHEE WA 98801-1046

WASTE MANAGEMENT OF WENATCHEE
PO BOX 78251
PHOENIX AZ 85062-8251

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FOR CHANGE OF ADDRESS OR ANY SERVICE ISSUES CONTACT NUMBER ON PAGE 1

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recycled paper.

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WASTE MANAGEMENT
WASTE MANAGEMENT OF WENATCHEE
PO BOX 1440
WENATCHEE WA 98807

Page 3 of 3
Customer: BAYE, ANN
Account Number: [REDACTED]
Invoice Date: 03/01/2009
Invoice Number: [REDACTED]
Due Date: 3/31/2009
WM ezPay Account ID: [REDACTED]

Service Location: 720-524117 Baye, Ann: 12393 Bretz Rd: Leavenworth Wa 98826-9538

Date	Ticket	Description	Quantity	U/M	Rate	Amount
		1-32 Gal can msw	1.00			16.89
		Fuel/environmental charge	1.00			2.13
		Refuse tax	1.00			.68
Total Current Charges						19.70

Payments Received Detail

Payment - thank you	35.58-
Total Payments Received	35.58-

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WASTE MANAGEMENT
WASTE MANAGEMENT OF WENATCHEE
PO BOX 1440
WENATCHEE WA 98807

Page 3 of 3
Customer: BAYE, ANN
Account Number: [REDACTED]
Invoice Date: 04/01/2009
Invoice Number: [REDACTED]
Due Date: 4/30/2009
WM ezPay Account ID: [REDACTED]

Service Location: 720-524117 Baye, Ann: 12393 Bretz Rd: Leavenworth Wa 98826-9538

Date	Ticket	Description	Quantity	U/M	Rate	Amount
		1-32 Gal can msw	1.00			16.89
		Fuel/environmental charge	1.00			1.97
		Refuse tax	1.00			.68
Total Current Charges						19.54

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WASTE MANAGEMENT

WASTE MANAGEMENT OF WENATCHEE
PO BOX 1440
WENATCHEE WA 98807

Customer:
Account Number:
Invoice Date:
Invoice Number:
Due Date:
WM ezPay Account ID:

Page 3 of 3
BAYE, ANN

06/01/2009

6/30/2009

Service Location: 720-524117 Baye, Ann: 12393 Bretz Rd: Leavenworth Wa 98826-9538

Date	Ticket	Description	Quantity	U/M	Rate	Amount
		1-32 Gal can msw	1.00			16.89
		Refuse tax	1.00			.61
		Late payment fee-wac				1.00
Total Current Charges						18.50

Credits and Adjustments Detail

04/30/2009	Credit refuse tax	.15-
04/30/2009	Credit fuel cm	1.95-
04/30/2009	Credit environmental cm	2.15-
Total Credits and Adjustments		4.25-

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WASTE MANAGEMENT OF WENATCHEE

32650 SR 20 E105
OAK HARBOR WA 98277
(509) 662-4591
(509) 662-5675 FAX
www.wmnorthwest.com

INVOICE

Customer: BAYE, ANN
Account Number: [REDACTED]
Invoice Date: 07/01/2009
Invoice Number: [REDACTED]
Due Date: 7/31/2009
WM ezPay Account ID: [REDACTED]

Current Invoice Amount 17.50
Total Amount Due 17.50

Account Summary

Description	Amount
Previous Balance	71.99
Total Credits and Adjustments	0.00
Total Payments Received	71.99
Total Current Charges	17.50
Total Amount Due	17.50
Total Amount Past Due	0.00

Service Period: JUNE 2009

Description	Amount
Commercial	17.50
Total Current Charges	17.50

If full payment of the invoiced amount is not received on or before the delinquent date, you will be charged a monthly late fee of 1% of the unpaid amount, with a minimum monthly charge of \$1.00, or such lesser late fee allowed under applicable law, regulation or contract. For each returned check, a fee will be assessed on your next billing equal to the maximum amount permitted by applicable state law.

Please pay total amount due. Thank you for your business.

Account delinquent if payment not posted by July 31, 2009.

Holidays: Regular service on all holidays except Thanksgiving, Dec 25th and Jan 1st. If your collection falls on or after one of those days, service will be one day later that week.

CONF # 100026924863
6/23/2009

Want to pay this bill on-line? Go to www.wm.com to learn more about WMezPay and make a convenient, secure payment.

Current Due	Over 30	Over 60	Over 90	Over 120	Total Due
17.50	0.00	0.00	0.00	0.00	17.50



WASTE MANAGEMENT OF WENATCHEE

32650 SR 20 E105
OAK HARBOR WA 98277
(509) 662-4591
(509) 662-5675 FAX
www.wmnorthwest.com

Learn how we Think Green at
www.wm.com/thinkgreen

Payment Coupon

Please detach and enclose this portion with your payment - do not send cash.

Invoice Date 07/01/2009		Your Account Number [REDACTED]	
Due Date 7/31/2009		Your Invoice Number [REDACTED]	
Total Due 17.50		Amount Paid	

Waste Management introduces WM ezPay!!
Pay your WM bill on-line at www.wm.com.

To pay your invoice by phone, call
866-WMI-2PAY or
866-964-2729.

0002511 01 AV 0335 **A/TQ T3 0 4180 98801-104613 CP2 12681C60



BAYE, ANN
2113 SUNRISE CIR
WENATCHEE WA 98801-1046

WASTE MANAGEMENT OF WENATCHEE
PO BOX 78251
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